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May 3, 1999

VIA HAND DELIVERY

ROBERT M. C. ROSE
OF COUNSEL

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JOHN L. WHARTON

Ms. Blanca S. Bayo, Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: North Fort Myers Utilities, Inc.; Wastewater Agreement with Twin Pines Village
Our File No. 16319.29

Dear Ms. Bayo:

Pursuant to Commission Rule 25-30.550, Florida Administrative Code, enclosed is a copy of a Wastewater Agreement entered into between North Fort Myers Utilities, Inc. and Curcuru Corporation for wastewater service to Twin Pines Village. North Fort Myers Utility Inc.'s wastewater treatment plant has a permitted capacity of 2.0 mgd. The current treatment plant connected load is approximately 1.1 million gallons a day and this Wastewater Agreement is for 30,600 gallons a day. There is sufficient capacity in NFMU's existing plant to provide wastewater service pursuant to this Wastewater Agreement. This Wastewater Agreement will have no noticeable impact on the Utility's rates due to the amount of demand being placed on the NFMU wastewater system, and resultant revenues.

In accordance with the aforementioned Rule, we will deem this Agreement approved if we do not receive notice from the Commission of its intent to disapprove within thirty days. Should you have any questions regarding this Agreement, please do not hesitate to contact me.

Very truly yours,

RECEIVED & FILED

FPSC/BUREAU OF RECORDS

MARTIN S. FRIEDMAN
For the Firm

- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- MAS _____ MSF/brm
- OPC _____ Enclosure
- RRR _____
- SEC 1 Cover Pg only
- WAW _____
- OTH 2 Cover the

DOCUMENT NO.
~~05544~~
5-3-99

WASTEWATER AGREEMENT

THIS AGREEMENT made and entered into this 27th day of April, 1998, by and between CURCURU CORP., a Florida corporation, hereinafter referred to as "Owner," and NORTH FORT MYERS UTILITY, INC., a Florida corporation, hereinafter referred to as "Service Company,"

WHEREAS, Owner owns or controls a wastewater system serving lands located in Lee County, Florida, and described in Exhibit "A," attached hereto and made a part hereof as if fully set out in this paragraph and hereinafter referred to as the "Property," and the Property has been developed as Twin Pines Village, which is a mobile home community consisting of a total of 151 mobile home lots and 4 RV sites.

WHEREAS, Owner desires that the Service Company provide wastewater collection, treatment and disposal service for Owner's Property herein described; and

WHEREAS, the Service Company is willing to provide, in accordance with the provisions of this Agreement and Service Company's Service Availability Policy, central wastewater services to the Property and thereafter operate applicable facilities so that the occupants of the improvements on the Property will receive an adequate wastewater treatment, collection and disposal service from Service Company;

NOW, THEREFORE, for and in consideration of the premises, the mutual undertakings and agreements herein contained and assumed, Owner and Service Company hereby covenant and agree as follows:

1.0 The foregoing recitations are true and correct and incorporated herein.

2.0 The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

- (a) "Contribution-in-aid-of-Construction (CIAC)"
- The sum of money and/or the value of property represented by the cost of the wastewater collection systems including lift stations and treatment plants constructed or to be constructed by an Owner, which Owner transfers, or agrees to transfer, to Service

Company at no cost to Service Company to provide utility service to specified property.

- (b) Equivalent Residential Connection (ERC)" - A factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose the average daily flow of one equivalent residential connection (ERC) is 275 gallons per day (gpd). The number of ERC's contained in a given ADF is determined by dividing that ADF by 275 gpd. The determination of the number of ERC's for the Property shall be subject to factoring as outlined in Service Company's Service Availability Policy.
- (c) "Point of Delivery" - The point where the pipes of Service Company are connected with the lines of the Owner which shall be at the force main to be constructed by Service Company adjacent to River Road.
- (d) "Property" - The area or parcel of land described in Exhibit "A."
- (e) "Service" - The readiness and ability on the part of Service Company to furnish and maintain wastewater service to the Point of Delivery (pursuant to applicable rules and regulations of applicable regulatory agencies).

3.0 Connection Charges. Owner hereby agrees to pay to Service Company the following connection charges:

Contributions In Aid Of Construction:
System Capacity Charges - The contribution of a portion of the cost of construction of treatment plants, and collection and disposal systems, described in Exhibit "B."

3.1 Payment of the connection charges does not and will not result in Service Company waiving any of its rates or rules and regulations, and their enforcement shall not be affected in any manner whatsoever by Owner making payment of same. Service Company shall not be obligated to refund to Owner any portion of the value of the connection charges for any reason whatsoever, nor shall Service Company pay any interest or rate of interest upon the connection charges paid.

3.2 Neither Owner nor any person or other entity holding any of the Property by, through or under Owner, or otherwise,

shall have any present or future right, title, claim or interest in and to the connection charges paid or to any of the wastewater facilities and properties of Service Company, and all prohibitions applicable to Owner with respect to no refund of connection charges, no interest payment on said connection charges and otherwise, are applicable to all persons or entities.

3.3 Owner shall not be entitled to offset any bill or bills rendered by Service Company for wastewater service against the connection charges paid. Owner shall not be entitled to offset the connection charges against any claim or claims of Service Company.

4.0 On-Site Installations. On-site installations shall include all wastewater collection lines, facilities and equipment, located within the boundaries of the Property, and constructed for the purpose of providing service to the existing and proposed dwelling units on the Property, and to connect to the force main to be constructed by Service Company adjacent to River Road.

4.1 Owner has constructed, or will construct, all on-site wastewater installations necessary to provide wastewater service to the Property, including but not limited to that portion of the Property currently being served by septic tanks, and a pump station, if necessary. Owner, at its own expense, shall maintain the on-site installations so that infiltration is within limits acceptable within the wastewater industry.

5.0 Off-Site Installations. Service Company hereby agrees to pay for the construction of the off-site wastewater collection system. The term "off-site wastewater collection system" means and includes all wastewater collection lines, facilities and equipment, including pumping stations, located outside the boundaries of Owner's Property and adjacent to River Road. The Service Company shall be responsible for operation and maintenance of any off-site installations.

6.0 Agreement to Serve. Upon the completion of construction of the off-site wastewater collection system and the other terms of this Agreement and Service Company's Service Availability Policy, Service Company covenants and agrees that it will connect or oversee the connection of the on-site wastewater collection system to the central facilities of Service Company in accordance with the terms and intent of this Agreement. Such connection shall at all times be in accordance with rules, regulations and orders of the applicable governmental authorities. Service Company agrees that once it provides wastewater service to the Property and Owner or others have connected to its system, that thereafter Service Company will continuously provide, at its cost and expense, but in accordance with the other provisions of this Agreement, including rules and

regulations and rate schedules, wastewater service to the Point of Connection in a manner to conform with all requirements of the applicable governmental authority having jurisdiction over the operations of Service Company.

7.0 Application for Service: Owner shall not have the right to and shall not connect to the facilities of Service Company until formal written application has been made to Service Company in accordance with the then effective rules and regulations of Service Company and approval for such connection has been granted.

7.1 If a commercial kitchen, cafeteria, restaurant or other commercial food preparation or dining facility is constructed within the Property, the Service Company shall have the right to require that a grease trap be constructed, installed and connected so that all wastewaters from any grease producing equipment within such facility, including floor drains in food preparation areas, shall first enter the grease trap for pretreatment before the wastewater is delivered to the lines of the Service Company. Size, materials and construction of such grease trap to be approved by Service Company.

7.2 No substance other than domestic wastewater will be placed into the wastewater system and delivered to the lines of the Service Company. Should any non-domestic wastes, grease or oils, including, but not limited to, floor wax or paint, be delivered to the lines, the resident of the Property making such delivery shall be responsible for payment of the cost and expense required in correcting or repairing any resulting damage.

8.0 Exclusive Right to Provide Service. Owner, as a further and essential consideration of this Agreement, agrees that Owner, or the successors and assigns of Owner, shall not (the words "shall not" being used in a mandatory definition) engage in the business or businesses of providing wastewater services to the Property during the period of time Service Company, its successors and assigns, provide wastewater services to the Property, it being the intention of the parties hereto that under the foregoing provision and also other provisions of this Agreement, Service Company shall have the sole and exclusive right and privilege to provide wastewater services to the Property and to the occupants of such residence, building or unit constructed thereon. Service Company represents and warrants that it is duly licensed to provide wastewater service to Owner and that it will take all necessary steps in order to keep in good standing all permits necessary to carry out this Agreement.

9.0 Rates. Service Company agrees that the rates to be charged to Owner shall be those set forth in the tariff of Service Company approved by the applicable governmental agency. However, notwithstanding any provision in this Agreement, Service

Company, its successors and assigns, may establish, amend or revise, from time to time in the future, and enforce rates or rate schedules so established and enforced and shall at all times be reasonable and subject to regulations by the applicable governmental agency, or as may be provided by law. Rates charged to Owner located upon the Property shall at all times be identical to rates charged for the same classification of service, as are or may be in effect throughout the service area of Service Company.

9.1 Notwithstanding any provision in this Agreement to the contrary, Service Company may establish, amend or revise, from time to time, in the future, and enforce rules and regulations covering wastewater services to the Property. However, all such rules and regulations so established by Service Company shall at all times be subject to such regulations as may be provided by law.

9.2 Any such initial or future lower or increased rates, rate schedules, and rules and regulations established, amended or revised and enforced by Service Company from time to time in the future, as provided by law, shall be binding upon Owner; upon any person or other entity holding by, through or under Owner; and upon any user or consumer of the wastewater service provided to the Property by Service Company.

10.0 Binding Effect of Agreement. This Agreement shall be binding upon and shall inure to the benefit of Owner, Service Company and their respective assigns and successors by merger, consolidation, conveyance or otherwise. Any assignment or transfer of this Agreement by Owner shall be approved in writing by Service Company, which approval shall not be unreasonably withheld.

11.0 Notice. Until further written notice by either party to the other, all notices provided for herein shall be in writing and transmitted by messenger, by mail or by telegram, and if to Owner, shall be mailed or delivered to Owner at:

Curcuru Corp. d/b/a Twin Pines Village
1319 River Road
North Fort Myers, Florida 33903
Att: Sam N. Curcuru, President

and if to the Service Company, at:

North Fort Myers Utility, Inc.
Post Office Box 2547
Ft. Myers, Florida 33902

with a copy to:

Martin S. Friedman, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

12.0 Laws of Florida. This Agreement shall be governed by the laws of the State of Florida and it shall be and become effective immediately upon execution by both parties hereto, subject to any approvals which must be obtained from governmental authorities.

13.0 Costs and Attorney's Fees. In the event the Service Company or Owner is required to enforce this Agreement by Court proceedings or otherwise, by instituting suit or otherwise, then the prevailing party shall be entitled to recover from the other party all costs incurred, including reasonable attorney's fees for administrative proceedings, trials and appeals.

14.0 Force Majeure. In the event that the performance of this Agreement by either party to this Agreement is prevented or interrupted in consequence of any cause beyond the control of such party, including but not limited to Act of God or of the public enemy, war, national emergency, allocation or of other governmental restrictions upon the use or availability of labor or materials, rationing, civil insurrection, riot, racial or civil rights disorder or demonstration, strike, embargo, flood, tidal wave, fire, explosion, bomb detonation, nuclear fallout, windstorm, hurricane, earthquake, sinkhole or other casualty or disaster or catastrophe, unforeseeable failure or breakdown of pumping transmission or other facilities, governmental rules or acts or orders or restrictions or regulations or requirements, acts or action of any government or public or governmental authority or commission or board or agency or agent or official or officer, the enactment of any statute or ordinance or resolution or regulation or rule or ruling or order, order or decree or judgment or restraining order or injunction of any court, said party shall not be liable for such non-performance, so long as said Party uses its best efforts to perform in the event of said disaster.

15.0 Indemnification. Each party agrees to indemnify and hold the other harmless from and against any and all liabilities, claims, damages, costs and expenses (including reasonable attorney's fees) to which the party may become subject by reason of or arising out of the other party's performance of this Agreement. This indemnification provision shall survive the actual connection to Service Company's wastewater system.

MISCELLANEOUS PROVISIONS

16.0 This Agreement supersedes all previous agreements or representations, either verbal or written, heretofore in effect between Owner and Service Company, made with respect to the matters herein contained, and when duly executed, constitutes the agreement between Owner and Service Company. No additions, alterations or variations of the terms of this Agreement shall be valid, nor can provisions of this Agreement be waived by either party, unless such additions, alterations, variations or waivers are expressed in writing and duly signed.

17.0 Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine, feminine and neuter genders shall each include the others.

18.0 Whenever approvals of any nature are required by either party to this Agreement, it is agreed that same shall not be unreasonably withheld or delayed.

19.0 The submission of this Wastewater Agreement for examination by Owner does not constitute an offer but becomes effective only upon execution thereof by Service Company.

20.0 Failure to insist upon strict compliance of any of the terms, covenants, or conditions herein shall not be deemed a waiver of such terms, covenants, or conditions, nor shall any waiver or relinquishment of any right or power hereunder at any one time or times be deemed a waiver or relinquishment of such right or power at any other time or times.

21.0 Because of inducements offered by Owner to Service Company, Service Company has agreed to provide wastewater services to Owner's Property. Owner understands and agrees that capacity reserved hereunder cannot and shall not be assigned by Owner to third parties without the written consent of Service Company, except in the case of a bona-fide sale of Owner's Property. Such approval shall not be unreasonably withheld. Moreover, Owner agrees that this contract is a superior instrument to any other documents, representations, and promises made by and between Owner and third parties, both public and private, as regards the provisions of wastewater service to Owner's Property.

22.0 It is agreed by and between the parties hereto that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one heading may be considered to be equally applicable under another in the interpretation of this Agreement.

23.0 This Agreement is binding on the successors and assigns of the parties hereto, including any municipal or governmental purchaser of Service Company. This Agreement shall survive the sale of Service Company to any party.

IN WITNESS WHEREOF, Owner and Service Company have executed or have caused this Agreement, with the named Exhibits attached, to be duly executed in several counterparts, each of which counterpart shall be considered an original executed copy of this Agreement.

WITNESSES:

NORTH FORT MYERS UTILITY, INC.

Sandra J. Sartin
Print Name SANDRA J. SARTIN

By A.A. Reeves III
A.A. Reeves, III
Its Vice President

Mary Slauson
Print Name MARY SLAUSON

CURCURU CORP.

E. David Johnson
Print Name E. DAVID JOHNSON

By Sam N. Curcuru
Sam N. Curcuru
Its: President

Mary Withreich
Print Name MARY WITHREICH

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 27th day of July, 1998, by A.A. Reeves, III, as Vice President of North Fort Myers Utility, Inc., a Florida corporation, on behalf of the corporation. He is personally known to me.

Kathleen R. Shields
Notary Public
State of Florida at Large
My Commission Expires:



STATE OF FLORIDA)
COUNTY OF Charlotte)

The foregoing instrument was acknowledged before me this 3rd
day of MARCH, 1998, by Sam N. Curcuru, as President,
on behalf of Curcuru Corp d/b/a Twin Pines Village. He is
personally known to me or has produced personally known
_____ as identification.



E. David Johnson
MY COMMISSION # CC781153 EXPIRES
November 30, 2002
BONDED THRU TROY FAIN INSURANCE INC.



Notary Public
My Commission Expires:

This Instrument Prepared By: Martin S. Friedman, Esquire, 2548
Blairstone Pines Drive, Tallahassee, Florida 32301.

agrmt\devag\twinpines
3/5/98

Legal Description

TWIN PINES VILLAGE

(Foster's Mobilodge)

The North 200 feet of the South 1,320 feet of the Southeast quarter (SE ¼) of the Southwest quarter (SW ¼) of Section 2, Township 44 South, Range 24 East, subject to road right-of-way over and across the Easterly 35 feet of the property here in above described subject to easements, restrictions and reservations of record.

And (Palms Park)

BEGINNING at a point 880 feet North of the Southeast corner of the Southeast quarter of the Southwest quarter of Section 2, Township 44 South Range 24 East, thence run West 1320 feet thence North 240 feet, thence East 1320 feet, thence South 240 feet to the point of BEGINNING, subject to easements, restrictions and reservations of record.

EXHIBIT "A"

CONTRIBUTION IN AID OF CONSTRUCTION

SYSTEM CAPACITY CHARGES

Before connection to Service Companies Gravity main adjacent to River Road, Owner shall pay Service Company the following System Capacity Charges to induce Service Company to reserve the following system capacities for Owner's connections. Owner understands that system capacity is only reserved upon payment of charges by Owner to Service Company. Said system capacity charges to be paid by Owner are those which are set forth in Service Company's Service Availability Policy approved by the Florida Public Service Commission and, accordingly, these charges may be changed from time to time with the approval of the Commission.

Payment Schedule

<u>Customer Category</u>	<u>Number of Units</u>	<u>Charge Per Unit</u>	<u>Total Charges</u>
<u>PHASE I</u>			
Mobile Homes	66	\$462.00	\$ 30,492.00
RV Sites	4	\$233.00	<u>932.00</u>
Total Phase I			\$ 31,424.00
<u>PHASE II</u>			
Mobile Homes	85	\$462.00	<u>\$ 39,270.00</u>
Total Phase II			\$ 39,270.00
Phase I & Phase II Grand Total			\$ 70,694.00

Should additional units be placed on the Property, or should the use of the Property change which increases the demand for wastewater service, then Owner shall be responsible for the payment of additional system capacity charge.

EXHIBIT "B"

exhibitB*